"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001."



पंजीयन क्रमांक
"छत्तीसगढ़/दुर्ग/09/2010-2012."

छत्तीसगढ़ राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 18] रायपुर, शुक्रवार, दिनांक 3 फरवरी 2012—माघ 14, शक 1933

कार्यालय मुख्य निर्वाचन पदाधिकारी, छत्तीसगढ़
इन्द्रावती खण्ड, मंत्रालय परिसर, रायपुर

रायपुर, दिनांक 1 फरवरी 2012

क्रमांक 49/याचिका/03/2011-12/209.—भारत निर्वाचन आयोग, नई दिल्ली का आदेश संख्या-82/छ.ग./(8/2009) 2011/601, दिनांक 23 जनवरी, 2012 लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग एतद्द्वारा निर्वाचन अर्जी संख्या-8/2009 में दिये गये उच्च न्यायालय छत्तीसगढ़, बिलासपुर के तारीख 18 अक्टूबर, 2011 के आदेश को सर्वसाधारण की जानकारी हेतु प्रकाशित की जाती है.

सुनील कुमार कुजूर,
मुख्य निर्वाचन पदाधिकारी.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001

नई दिल्ली, तारीख 23 जनवरी, 2012—3 माघ, 1933 (शक)

अधिसूचना

सं. 82/छ.ग./(8/2009)/2011.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग एतद्द्वारा निर्वाचन अर्जी सं. 8/2009 में दिये गये उच्च न्यायालय छत्तीसगढ़, बिलासपुर के तारीख 18 अक्टूबर, 2011 के आदेश को प्रकाशित करता है.

आदेश से,

हस्ता./-
(के. अजय कुमार)
प्रधान सचिव,
भारत निर्वाचन आयोग.

HIGH COURT OF CHHATTISGARH, BILASPUR

Election Petition No. 8 of 2009

PETITIONER : Shiv Ratan Sharma, Son of Shri Late Ramdayal Sharma, Aged about 48 years, Resident of Subhash Ward, Tehsil Bhatapara, District-Raipur (Chhattisgarh)

Versus

RESPONDENT : Shri Chait Ram Sahu, Son of Shri Runa Sahu, Resident of Village Mopka, District Raipur, Chhattisgarh.

(Election Petition under Section 80/80A and 81 of the Representation of People Act, 1951)

Present : Mr. Ramakant Mishra, counsel for the petitioner.

Mr. Pradeep Saksena, counsel for the respondent.

Single Bench : Hon'ble Mr. T. P. Sharma, J

ORDER
(18th October, 2011)

1. By this petition under Sections 80, 80A and 81 of the Representation of the People Act, 1951 (for short 'the Act'), the petitioner has challenged the election of the returned candidate, the respondent herein, on the sole ground of improper acceptance of nomination form of the respondent.

2. As per the election petition, Chhattisgarh State Legislative Assembly election was held on 20th of November, 2008. The petitioner was candidate from Bhartiya Janata Party and has contested the election. The respondent is returned candidate. At the time of filing nomination form, the respondent was required to submit affidavit stating details of his dependents in a proforma. The respondent has submitted affidavit in which he has specifically mentioned his son Santosh Kumar as his depentent which was objected by the petitioner that son of the respondent namely Santosh Sahu is a registered contractor in the Public Works Department and the Rural Health & Engineering Department, and that he is not dependent of the respondent, then the respondent had

filed another affidavit explaning the previous affidavit in which he has explained that his son Santosh is residing with him as son but he is not dependent relating to business and he is running his independent business. The Returning Officer has accepted the nomination form on the basis of aforesaid explanatory affidavit and finally, the respondent won the election.

3. By filing return along with preliminary objection, the respondent has admitted aforesaid facts and pleaded that by filing explanatory affidavit, he has explained the circumstances in first affidavit, and his nomination form has not been improperly or illegally accepted by the Returning Officer.

4. In support of preliminary objection, learned counsel for the respondent submitted that two affidavits filed on behalf of the respondent are self-explanatory and, therefore, the present petition is without cause of action and such petition is not maintainable.

5. On the other hand, learned counsel for the petitioner submitted that two affidavits filed by the respondent are not supplementary or explanatory to each other, but are contradictory to each other. Out of the two affidavits, patently, one affidavit is false. Therefore, the Returning Officer was under obligation to reject the nomination form, but by improperly accepting the nomination form, the Returning Officer has committed illegality.

6. The affidavit attached along with the nomination form reveals that Santosh Kumar, son of the respondent, has been shown as dependent No. 1 of the respondent. After filing of objection before the concerned authority on behalf of the petitioner, the respondent has filed another affidavit which reads as follows :—

मैं चैतराम साहू पिता रूना साहू, निवासी-ग्राम मोपका, जिला रायपुर छ.ग. निम्न कथन शपथपूर्वक करता हूं :—

1. यह कि, मेरे द्वारा 46 भांठापारा विधान सभा क्षेत्र से इंडियन नेशनल कांग्रेस द्वारा नामांकन पत्र दाखिल किया गया है.

2. यह कि, संतोष साहू मेरा पुत्र है जिसकी उम्र 26 साल है. जो कि वयस्क है.

3. यह कि, मेरा पुत्र अपना स्वयं का व्यवसाय कार्य करता है तथा मुझ पर आश्रित नहीं है वह मेरा पुत्र होने के नाते हमारे साथ ही मात्र निवासरत है.

सत्यापन

मैं उपरोक्त शपथकर्ता यह सत्यापित करता हूं कि शपथ पत्र की क्र. 1 से 3 में लिखी बातें सही है. जिसे रायपुर में हस्ताक्षर कर सत्यापित किया.

7. Second affidavit is virtually explanatory affidavit and by second affidavit, the respondent has explained first affidavit and the circumstances. First affidavit was vague, but before acceptance of nomination form the respondent has filed second affidavit which was self-explanatory and reveals that son of the respondent Santosh is major and is residing with the respondent as his son, but he is running his independent business and is not dependent upon his father relating to his business. After filing affidavit, concerned authority has accepted the nomination form. In these circumstances, it is difficult to hold that the nomination form of the respondent has been improperly accepted.

8. Consequently, I do not find any substance/cause of action/cause for filing election petition. The petition is, therefore, liable to be dismissed and it is hereby dismissed. Parties shall bear their own costs.

9. Advocate fees as per schedule.

Sd/-

T. P. Sharma,
Judge.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

New Delhi, Dated 23rd January, 2012—3 Magha, 1933 (Saka)

NOTIFICATION

No. 82/CGH/(8/2009)/2011 .— In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes Order dated the 18th October, 2011 of the High Court of Chhattisgarh, Bilaspur in Election Petition No. 8/2009.

By order,

Sd/-
(K. AJAY KUMAR)
Pr. Secretary
Election Commission of India.

HIGH COURT OF CHHATTISGARH, BILASPUR

Election Petition No. 8 of 2009

PETITIONER : Shiv Ratan Sharma, Son of Shri Late Ramdayal Sharma, Aged about 48 years, Resident of Subhash Ward, Tehsil Bhatapara, District-Raipur (Chhattisgarh)

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9. Advocate fees as per schedule.

Sd/-

T. P. Sharma,
Judge.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव से मुद्रित तथा प्रकाशित—2012.